



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

BARSTOW FIELD OFFICE
2601 BARSTOW ROAD
BARSTOW, CA 92311
(760) 252-6000
www.ca.blm.gov/barstow

IN REPLY REFER TO:

4160(P)

CA-680.36

CERTIFIED MAIL NO. 70993220000132561826
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

You currently have a grazing lease for the Cronese Lake and Cady Mountain Allotments. The Cronese Lake Allotment is an ephemeral/perennial allotment with potential to authorize ephemeral forage and an established perennial forage allocation. You are currently permitted to graze 500 AUMs, equivalent to 40 head of cattle on the Cronese Lake Allotment. The Cronese Lake Allotment encompasses 65,304 acres. There are 640 acres of State land, 10,414 acres of private land, and 54,250 acres of BLM land. You own or control 49 acres of the private land. There are 30,080 acres of desert tortoise critical habitat within the allotment. The enclosed map indicates the area of the allotment, land ownership, desert tortoise critical habitat, and proposed area of seasonal cattle grazing exclusion.

The Cady Mountain Allotment is an ephemeral/perennial allotment with potential to authorize ephemeral forage and no established perennial forage allocation, however total grazing use shall not exceed 2,000 AUMs. You are currently permitted to graze 2,000 AUMs, equivalent to 167 head of cattle on the Cady Mountain Allotment. The allotment encompasses 231,897 acres. There are 1,280 acres of State land, 58,790 acres of private land, and 160,104 acres of BLM land. You own or control 49 acres of the private land. There are 160,104 acres of desert tortoise non-critical habitat within the allotment. The enclosed map indicates the area of the allotment, land ownership, desert tortoise critical habitat, and proposed area of seasonal cattle grazing exclusion.

BACKGROUND

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this grazing decision will cease upon issuance of a biological opinion from the FWS covering grazing activities in accordance with the CDCA Plan, as amended or on **January 31, 2002** whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal closure (June 15 or November 7) will be extended by an additional day.

PROPOSED DECISION

It is my proposed decision, based upon the environmental assessment included herein, that cattle grazing will not be authorized in the area of seasonally excluded area depicted in green as shown on the enclosed maps. The Cronese Lake Allotment exclusion area is approximately 18,000 acres of desert tortoise critical habitat. This area will be closed to cattle grazing from March 1 to June 15 and from September 7 to November 7. Grazing use on the Cronese Lake Allotment shall not exceed 13,383 animal (cattle) days for the year, equivalent to 37 head of cattle. The permitted use for the Cronese Lake Allotment shall be temporarily reduced to 444 AUMs, with a maximum stocking rate of 36 head of cattle.

The Cady Mountain Allotment exclusion area is approximately 88,320 acres of desert tortoise non-critical habitat. This area will be closed to cattle grazing from March 1 to June 15 and from September 7 to November 7. In addition, livestock grazing in the Cady Mountain Allotment shall not be permitted along, or within the Mojave River at Afton Canyon for the term of this decision. To facilitate the closure of the Afton Canyon portion of the Cady Mountain Allotment the construction of gap fences at the western and eastern ends of the canyon shall be implemented through this decision. You shall have maintenance responsibility for such structures. My authority for these modifications are contain in 43 CFR 4120.3-1 (c) and 4120.3-2 (a). My authority to modify current grazing practices and reduce permitted use is contained in 43 CFR 4110.3-2 (b) and 4130.3-3 (a). These modification to grazing use on the Cronese Lake and Cady Mountain Allotments shall be incorporated in to the current grazing lease as terms and conditions for the duration of this decision. My authority to incorporate these terms and conditions are contained in 43 CFR 4130.3.

In order to ensure that the above modification are adhere to, I shall impose the penalties for any non-compliance with this decision discussed herein under ***Enforcement and Compliance Review*** : “If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal closure (June 15 or November 7) will be extended by an additional day.”, in addition to those already included in 43 CFR 4140.1 b (ii)(iii).

The modification to grazing use in Afton Canyon of the Cady Mountain Allotment set forth in

this grazing decision are interim in nature, and will cease upon the signing of the record of decision (ROD) for the West Mojave bio-regional CDCA Plan amendment. The modification to other grazing use in the Cady Mountain and Cronese Lake Allotments set forth in this grazing decision will cease upon the issuance of biological opinion from the FWS covering grazing activities in accordance with the CDCA Plan, as amended or on **January 31, 2002** whichever is later.

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Cady Mountain and Cronese Lake Allotments needs to be modified to enhance critical and non-critical habitat for the desert tortoise and improve forage conditions. This conclusion is based on rangeland monitoring and the 2000 Rangeland Health Assessment conducted on the Cady Mountain and Cronese Lake Allotments. My authority to modify current grazing practices is contained in 43 CFR 4110.3-2 (b).

In order to maintain and improve riparian habitat along the Mojave River at Afton Canyon, livestock grazing shall be terminated for this portion of the Cady Mountain Allotment.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations which states in pertinent parts:

43 CFR 4110.3-2 (b) “When monitoring or field observations show grazing use or patterns of use are not consistent with the provision in subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization, or when the use exceeds the livestock carrying capacity as determined through monitoring, ecological site inventory or other acceptable methods, the authorized officer shall reduce the permitted grazing use or otherwise modify management practices.”

43 CFR 4110.3-3 (a) “After consultation , cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.”

43 CFR 4120.3-1 (c) “The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under §4130.3-2 of this title.”

43 CFR 4120.3-2 (a) “The Bureau of Land Management may enter into a cooperative range improvements or rangeland developments to achieve management or resource condition objectives. The cooperative range improvement agreement shall specify how the costs or labor, or both, shall be divided between the United States and cooperators(s).”

43 CFR 4130.3..... “Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

If you wish to protest this decision in accordance with 43 CFR 4160.2, you are allowed fifteen (15) days from the receipt of this notice within which to file such protest.

Your protest must be filed with the Barstow Field Office Manager within fifteen (15) days of the receipt of this decision at the above BLM Office, 2601 Barstow Road, Barstow California 92311. The protest should specify clearly and concisely why you think this decision is in error. All reasons for error not stated in the protest shall be considered waived. A final decision will be issued at the conclusion of the protest period after consideration of protested issued, if any.

Barry Nelson
Field Manager (Acting)

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures
EA and FONSI
Allotment maps



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Needles Field Office
101 West Spikes Road
Needles, California 92363
Phone: (760)326-7000 Fax: (760)326-7099
email: ca690@ca.blm.gov

In Reply Refer To:

4100(P)

09007

(CA.690.21)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Horsethief Springs Allotment is an ephemeral/perennial allotment with potential to authorize ephemeral forage and an established perennial forage allocation of 5,598 animal unit months (AUMs). The Horsethief Springs Allotment encompasses 158,606 acres of private, State, and BLM administered lands. You are currently permitted to graze 2,418 AUMs or 202 cattle on the Horsethief Springs Allotment. There are 50,965 acres of desert tortoise non-critical habitat within the allotment. The enclosed map(s) indicates the area of the allotment, general location of range improvements, land ownership, desert tortoise habitat, and proposed area of seasonal cattle grazing exclusion. This proposed grazing decision, based upon the enclosed environmental assessment, modifies the way cattle can use the allotment to protect desert tortoise and its critical habitat, establishes the period for this modification, and sets parameters for cattle use.

BACKGROUND

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this grazing decision will cease upon issuance of a biological opinion from the FWS covering grazing activities in accordance with the Environmental Impact Statement for the Proposed California Desert Conservation Area Plan Amendments for The Northern and Eastern Mojave Planning Area or on January 31, 2002 whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known.

For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(i) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal closure (June 15 or November 7) will be extended by an additional day.

PROPOSED DECISION

It is my proposed decision, based upon the environmental assessment included herein, that cattle grazing will not be authorized in the area of seasonal exclusion depicted in green as shown on the enclosed map. The exclusion area is approximately 47,581 acres of desert tortoise non-critical habitat. This area will be excluded to cattle grazing from March 1 to June 15 and from September 7 to November 7. The restrictions set forth in this grazing decision will be in effect until the a biological opinion from the FWS covering grazing activities in accordance with the Environmental Impact Statement for the Proposed California Desert Conservation Area Plan Amendments for The Northern and Eastern Mojave Planning Area is completed, or on January 31, 2002, whichever is later.

In the Horsethief Springs Allotment, grazing us of available temporary non-renewable perennial forage shall not occur. My authority to modify current grazing practices and reduce permitted use is contained in 43 CFR 4110.3-2 (b) and 4130.3-3 (a).

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Horsethief Springs Allotment needs to be modified to enhance critical habitat for the desert tortoise and improve forage conditions. This action will remove the potential and actual impacts from the tortoise habitat, to the extent that they occur in the Horsethief Springs Allotment, during the interim period.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations which state in pertinent parts:

4110.3-3 (a) After consultation, cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.

43 CFR 4130.3..... "Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part."

43 CFR 4140.1 b (ii)(iii)..... "Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or

other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

You may protest this grazing decision within 15 days of receipt in accordance with 43 CFR 4160.2. Your protest may be in person or in writing and filed with the Needles Field Office Manager, 101 West Spikes Road, Needles, California, 92363. Your protest should specify clearly and concisely why you think this proposed decision, and the underlying EA, is in error. A final decision will be issued at the conclusion of the protest period after consideration of protested issues, if any.

Sincerely,

/s/ _____
Gary Sharpe, Acting,
for Molly Brady
Needles Field Office Manager

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures

Environmental Assessment Number CA-610-01-02
Horsethief Springs Allotment Map



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Needle
s Field

Office
101 West Spikes Road
Needles, California 92363
Phone: (760)326-7000 Fax: (760)326-7099
email: ca690@ca.blm.gov

In Reply Refer To:
4100(P)
09010
(CA-690.21)

CERTIFIED MAIL NO. 7099 3220 0001 3917 5798
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Kessler Springs Allotment is an ephemeral/perennial allotment with potential to authorize ephemeral forage and an established perennial forage allocation of 1,042 animal unit months (AUMs). The current boundary of the Kessler Springs Allotment encompasses 15,054 acres of private, State, and BLM administered lands. After the 1994 California Desert Protection Act, approximately 87% of the allotment was transferred to the National Park Service (NPS), and on August 29, 2000, the grazing permit and designation of the Kessler Springs Allotment within the boundary of the Mojave National Preserve was canceled. The National Park Foundation (NPF) negotiated with _____ to purchase the remaining base property for the Kessler Springs Allotment and a transfer of the grazing lease is pending. Currently 668 cattle are authorized on the Kessler Springs Allotment which to date has been jointly administered by both agencies.

There are 11,901 acres of desert tortoise critical habitat and 2,616 acres of non-critical habitat

within the Kessler Springs Allotment. The enclosed map indicates the area of the allotment, general location of range improvements, land ownership, desert tortoise critical habitat, and proposed area of seasonal cattle grazing exclusion. This proposed grazing decision, based upon the enclosed environmental assessment, modifies the way cattle can use the allotment to protect desert tortoise and its critical habitat, establishes the period for this modification, and sets parameters for cattle use.

BACKGROUND

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this grazing decision will cease upon issuance of a biological opinion from the FWS covering grazing activities in accordance with the Environmental Impact Statement for the Proposed California Desert Conservation Area Plan Amendments for The Northern and Eastern Mojave Planning Area or on January 31, 2002, whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known.

For those allotments for which cattle are to be removed year-round from desert tortoise habitat (Paragraphs 2(d), 2(e), 2(f), 2(g), 2(h), and 2(i)), if cattle are documented to be present in excluded areas, if the removal procedures outlined in

this paragraph have been invoked, and cattle are subsequently documented to be in the excluded areas (second offense), BLM shall reduce the number of animal days per year authorized for that allotment by the number of animal days of cattle documented to be in the excluded areas on the occasion of the violation.

PROPOSED DECISION

It is my proposed decision, based upon the environmental assessment included herein, that cattle grazing will not be authorized in the area of exclusion depicted in green as shown on the enclosed map. The exclusion area is approximately 11,901 acres of critical desert tortoise habitat and 2,616 acres of non-critical desert tortoise habitat, or 96% of the allotment. Adjacent portions of Valley View and Kessler Springs Allotments are not fenced apart and will be simultaneously closed to prevent cattle drifting into tortoise critical habitat in either allotment.

The restrictions set forth in this grazing decision will be in effect until the a biological opinion from the FWS covering grazing activities in accordance with the Environmental Impact Statement for the Proposed California Desert Conservation Area Plan Amendments for The Northern and Eastern Mojave Planning Area is completed, or on January 31, 2002, whichever is later.

In the Kessler Springs Allotment, grazing use of available temporary non-renewable perennial forage shall not occur. My authority to modify current grazing practices and reduce permitted use is contained in 43 CFR 4110.3-2 (b) and 4130.3-3 (a).

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Kessler Springs Allotment needs to be modified to enhance critical habitat for the desert tortoise and improve forage conditions. This action will remove the potential and actual impacts from the tortoise habitat, to the extent that they occur in the Kessler Springs Allotment, during the interim period.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations which state in pertinent parts:

4110.3-3 (a) After consultation, cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.

43 CFR 4130.3..... “Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

You may protest this grazing decision within 15 days of receipt in accordance with 43 CFR 4160.2. Your protest may be in person or in writing and filed with the Needles Field Office Manager, 101 West Spikes Road, Needles, California, 92363. Your protest should specify clearly and concisely why you think this proposed decision, and the underlying EA, is in error. A final decision will be issued at the conclusion of the protest period after consideration of protested issues, if any.

Sincerely,

Gary Sharpe, Acting,
for Molly Brady,
Needles Field Office Manager

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures

Environmental Assessment Number CA-610-01-02
Valley View and Kessler Springs Allotment Map



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Needles Field Office
101 West Spikes Road
Needles, California 92363
Phone: (760)326-7000 Fax: (760)326-7099
email: ca690@ca.blm.gov

In Reply Refer To:
4100(P)
09076
(CA.690.21)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Lazy Daisy Allotment is an ephemeral/perennial allotment with potential to authorize ephemeral forage and an established perennial forage allocation of 3,192 animal unit months (AUMs). You are permitted to graze 266 cattle on the Lazy Daisy Allotment and the allotment encompasses 332,886 acres of private, State, and BLM administered lands. You own or control 41 acres of the private land and 37,566.69 acres of the State land. There are 260,025 acres of desert tortoise critical habitat and 72,861 acres of non-critical habitat within the allotment. The enclosed map(s) indicates the area of the allotment, general location of range improvements, land ownership, desert tortoise critical habitat, and proposed area of seasonal cattle grazing exclusion. This proposed grazing decision, based upon the enclosed environmental assessment, modifies the way cattle can use the allotment to protect desert tortoise and its critical habitat, establishes the period for this modification, and sets parameters for cattle use.

BACKGROUND

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this grazing decision will cease upon issuance of a biological opinion from the FWS covering grazing activities in accordance with the Northern and Eastern Colorado Coordinated Management Plan and Environmental Impact Statement or on January 31, 2002 whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known.

For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(i) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal closure (June 15 or November 7) will be extended by an additional day.

PROPOSED DECISION

It is my proposed decision, based upon the environmental assessment included herein, that cattle grazing will not be authorized in the seasonal closure area depicted in green as shown on the enclosed map. The closure area is approximately 108,020 acres of the 260,025 acres of desert tortoise critical habitat. This area will be closed to cattle grazing from March 1 to June 15 and from September 7 to November 7. Also, grazing use on the Lazy Daisy Allotment shall not exceed 1,300 animal (cattle) days, or 108 cattle for the year.

The restrictions set forth in this grazing decision will be in effect until the a biological opinion from the FWS covering grazing activities in accordance with the Environmental Impact Statement for the Proposed California Desert Conservation Area Plan Amendments for The Northern and Eastern Mojave Planning Area is completed, or on January 31, 2002, whichever is later.

In the Lazy Daisy Allotment, grazing us of available temporary non-renewable perennial forage shall not occur. My authority to modify current grazing practices and reduce permitted use is contained in 43 CFR 4110.3-2 (b) and 4130.3-3 (a).

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Lazy Daisy Allotment needs to be modified to enhance critical habitat for the desert tortoise and improve forage conditions. This action will remove the potential and actual impacts from the tortoise habitat, to the extent that they occur in the Lazy Daisy Allotment, during the interim period.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations which state in pertinent parts:

4110.3-3 (a) After consultation, cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.

43 CFR 4130.3..... "Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the

Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

You may protest this grazing decision within 15 days of receipt in accordance with 43 CFR 4160.2. Your protest may be in person or in writing and filed with the Needles Field Office Manager, 101 West Spikes Road, Needles, California, 92363. Your protest should specify clearly and concisely why you think this proposed decision, and the underlying EA, is in error. A final decision will be issued at the conclusion of the protest period after consideration of protested issues, if any.

Sincerely,

/s/ _____
Gary Sharpe, Acting,
for Molly Brady
Needles Field Office Manager

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures

Environmental Assessment Number CA-610-01-02
Lazy Daisy Allotment Map



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Needles Field Office
101 West Spikes Road
Needles, California 92363
Phone: (760)326-7000 Fax: (760)326-7099
email: ca690@ca.blm.gov

In Reply Refer To:

4100(P)
09000
(CA.690.21)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Valley View Allotment is an ephemeral/perennial allotment with potential to authorize ephemeral forage and an established perennial forage allocation of 695 animal unit months (AUMs). The Valley View Allotment encompasses 33,227 acres of private, State, and BLM administered lands. After the 1994 California Desert Protection Act, approximately 95% of the allotment was transferred to the National Park Service (NPS) and designated as the Mojave National Preserve. Currently 707 cattle are authorized on the Valley View Allotment which to date has been jointly administered by both agencies. There are 5,779 acres of desert tortoise critical habitat and 26,281 acres of non-critical habitat within the allotment. The enclosed map(s) indicate the area of the allotment, general location of range improvements, land ownership, desert tortoise critical habitat, and proposed area of cattle grazing exclusion. This proposed grazing decision, based upon the enclosed environmental assessment, modifies the way your cattle can use the allotment to protect desert tortoise and its critical habitat, establishes the period for this modification, and sets parameters for cattle use.

BACKGROUND

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this grazing decision will cease upon issuance of a biological opinion from the FWS covering grazing activities in accordance with the Environmental Impact Statement for the Proposed California Desert Conservation Area Plan Amendments for The Northern and Eastern Mojave Planning Area or on January 31, 2002 whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known.

For those allotments for which cattle are to be removed year-round from desert tortoise habitat (Paragraphs 2(d), 2(e), 2(f), 2(g), 2(h), and 2(i)), if cattle are documented to be present in excluded areas, if the removal procedures outlined in this paragraph have been invoked, and cattle are subsequently documented to be in the excluded areas (second offense), BLM shall reduce the number of animal days per year authorized for that allotment by the number of animal days of cattle documented to be in the excluded areas on the occasion of the violation.

PROPOSED DECISION

It is my proposed decision, based upon the environmental assessment CA-610-01-02 included herein, that cattle grazing will not be authorized in the area of exclusion depicted in green as shown on the enclosed map. The exclusion area is approximately 5,779 acres of the desert tortoise critical habitat within the allotment. Adjacent portions of Valley View and Kessler Springs Allotments are not fenced apart and will be simultaneously closed to prevent cattle drifting into tortoise critical habitat in either allotment. That portion of the Valley View Allotment south of I-15 near the community of Mountain Springs is not excluded from grazing.

The restrictions set forth in this grazing decision will be in effect until the a biological opinion from the FWS covering grazing activities in accordance with the Environmental Impact Statement for the Proposed California Desert Conservation Area Plan Amendments for The Northern and Eastern Mojave Planning Area is completed, or on January 31, 2002, whichever is later.

In the Valley View Allotment, grazing us of available temporary non-renewable perennial forage shall not occur.

My authority to modify current grazing practices and reduce permitted use is contained in 43 CFR 4110.3-2 (b) and 4130.3-3 (a).

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Valley View Allotment needs to be modified to enhance critical habitat for the desert tortoise and improve forage conditions. On Valley View, a portion of the allotment would still be available for grazing use, however, due to lack of natural barriers and fencing, it is expected that cattle would drift onto the excluded area since water sources are located within the desert tortoise critical habitat. Cattle are also expected to drift onto the excluded of the adjacent Kessler Springs Allotment. Since this drift would be unavoidable, cattle will need to be removed from the part of the Valley View Allotment north of I-15 to prevent them from drifting into tortoise critical habitat in either allotment. This action will remove the potential and actual impacts from the tortoise habitat, to the extent that they occur in the Valley View and Kessler Springs Allotments, during the interim period.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations which state in pertinent parts:

4110.3-3 (a) After consultation, cooperation and coordination with the affected

permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.

43 CFR 4130.3..... “Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth in 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

You may protest this grazing decision within 15 days of receipt in accordance with 43 CFR 4160.2. Your protest may be in person or in writing and filed with the Needle Field Office Manager, 101 West Spikes Road, Needles, California, 92363. Your protest should specify clearly and concisely why you think this proposed decision, and the underlying EA, is in error. A final decision will be issued at the conclusion of the protest period after consideration of protested issues, if any.

Sincerely,

/s/ _____
Gary Sharpe, Acting,
for Molly Brady
Needles Field Office Manager

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures

Environmental Assessment Number CA-610-01-02
Valley View and Kessler Springs Allotment Map



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Needles Field Office
101 West Spikes Road
Needles, California 92363
Phone: (760)326-7000 Fax: (760)326-7099
email: ca690@ca.blm.gov

In Reply Refer To:
4100(P)
09009
(CA.690.21)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Valley Wells Allotment is an ephemeral/perennial allotment with potential to authorize ephemeral forage and an established perennial forage allocation of 3,808 animal unit months (AUMs). The Valley Wells Allotment encompasses 237,127 acres of private, State, and BLM administered lands. After the 1994 California Desert Protection Act, approximately 18% of the allotment was transferred to the National Park Service (NPS) and designated as the Mojave National Preserve. _____ is in the process of negotiating with you to obtain the remaining base property for the Valley Wells Allotment, and a grazing lease transfer is pending. Currently 387 cattle are authorized on the Valley Wells Allotment which to date has been jointly administered by both agencies.

There are 111,099 acres of desert tortoise critical habitat and 126,028 acres of non-critical habitat within the allotment. The enclosed map(s) indicates the area of the allotment, general location of range improvements, land ownership, desert tortoise critical habitat, and proposed area of seasonal cattle grazing exclusion. This proposed grazing decision, based upon the enclosed environmental assessment, modifies the way your cattle can use the allotment to protect desert tortoise and its critical habitat, establishes the period for this modification, and sets parameters for cattle use.

BACKGROUND

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this grazing decision will cease upon issuance of a biological opinion from the FWS covering grazing activities in accordance with the Environmental Impact Statement for the Proposed California Desert Conservation Area Plan Amendments for The Northern and Eastern Mojave Planning Area or on January 31, 2002 whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, Enforcement and Compliance Review, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(i) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal closure (June 15 or November 7) will be extended by an additional day. For those allotments for which cattle are to be removed year-round from desert tortoise habitat (Paragraphs 2(d), 2(e), 2(f), 2(g), 2(h), and 2(i)), if cattle are documented to be present in excluded areas, if the removal procedures outlined in this paragraph have been invoked, and cattle are subsequently documented to be in the excluded areas (second offense), BLM shall reduce the number of animal days per year authorized for that allotment by the number of animal days of cattle documented to be in the excluded areas on the occasion of the violation.

PROPOSED DECISION

It is my proposed decision, based upon the environmental assessment included herein, that cattle grazing will not be authorized in the area of seasonal exclusion depicted in green as shown on the enclosed map. The exclusion area is approximately 88,879 acres of the 111,099 acres of desert tortoise critical habitat. This area will be excluded to cattle grazing from March 1 to June 15 and from September 7 to November 7. Also, grazing use on the Valley Wells Allotment shall not exceed 1,692 animal (cattle) days or 141 cattle for the year.

The restrictions set forth in this grazing decision will be in effect until the a biological opinion from the FWS covering grazing activities in accordance with the Environmental Impact Statement for the Proposed California Desert Conservation Area Plan Amendments for The Northern and Eastern Mojave Planning Area is completed, or on January 31, 2002, whichever is later.

In the Valley Wells Allotment, grazing us of available temporary non-renewable perennial forage shall not occur. My authority to modify current grazing practices and reduce permitted use is contained in 43 CFR 4110.3-2 (b) and 4130.3-3 (a).

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Valley Wells Allotment needs to be modified to enhance critical habitat for the desert tortoise and improve forage conditions. This action will remove the potential and actual impacts from the tortoise habitat, to the extent that they occur in the Valley Wells Allotment, during the interim period.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations which state in pertinent parts:

4110.3-3 (a) After consultation, cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.

43 CFR 4130.3..... "Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part."

4110.3-3 (a) (b) [will do later]

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

You may protest this grazing decision within 15 days of receipt in accordance with 43 CFR 4160.2. Your protest may be in person or in writing and filed with the Needles Field Office Manager, 101 West Spikes Road, Needles, California, 92363. Your protest should specify clearly and concisely why you think this proposed decision, and the underlying EA, is in error. A final decision will be issued at the conclusion of the protest period after consideration of protested issues, if any.

Sincerely,

/s/ _____
Gary Sharpe, Acting,
for Molly Brady
Needles Field Office Manager

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures

Environmental Assessment Number CA-610-01-02
Valley Wells Allotment Map

United States Department of the Interior
BUREAU OF LAND MANAGEMENT

BARSTOW FIELD OFFICE
2601 BARSTOW ROAD
BARSTOW, CA 92311
(760) 252-6000
www.ca.blm.gov/barstow

IN REPLY REFER TO:

4160(P)
CA-680.36

CERTIFIED MAIL NO.
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Harper Lake Allotment is an ephemeral/perennial allotment with potential to authorize ephemeral forage and an established perennial forage allocation. You are currently permitted to graze 600 AUMs, equivalent to 50 head of cattle on the Harper Lake Allotment. The Harper Lake Allotment encompasses 26,314 acres. There are 640 acres of State land, 9,240 acres of private land, and 21,602 acres of BLM land. You own or control 40 acres of the private land. There are 16,482 acres of desert tortoise critical habitat within the allotment. The enclosed map indicates the area of the allotment, general location of range improvements, land ownership, desert tortoise critical habitat, and proposed area of seasonal cattle grazing exclusion.

BACKGROUND

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this grazing decision will cease upon issuance of a biological opinion from the FWS covering grazing activities in accordance with the CDCA Plan, as amended or **on January 31, 2002** whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal closure (June 15 or November 7) will be extended by an additional day.

PROPOSED DECISION

It is my proposed decision, based upon the Environmental Assessment CA-610-01-02 included herein, that cattle grazing will not be authorized in the area seasonally excluded depicted in green as shown on the enclosed map. The Harper Lake Allotment exclusion area is approximately 16,482 acres of desert tortoise critical habitat. This area will be excluded from cattle grazing from March 1 to June 15 and from September 7 to November 7. Grazing use on the Harper Lake Allotment shall not exceed 17,033 animal (cattle) days for the year. The permitted use for this allotment shall be temporarily reduced to 560 AUMs, with a maximum stocking rate of 46 head of cattle. In the Harper Lake Allotment, grazing use of available temporary non-renewable perennial forage shall not occur. My authority to modify current grazing practices and reduce permitted use is contained in 43 CFR 4110.3-2 (b) and 4130.3-3 (a). These modification to grazing use on the Ord Mountain Allotment shall be incorporated in to the current grazing lease as terms and conditions for the duration of this decision. My authority to incorporate these terms and conditions are contained in 43 CFR 4130.3.

In order to ensure that the above modification are adhere to, I shall impose the penalties for any non-compliance with this decision discussed herein under ***Enforcement and Compliance***

Review : “If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal closure (June 15 or November 7) will be extended by an additional day.”, in addition to those already included in 43 CFR 4140.1 b (ii)(iii).

The modification to grazing use in the Harper Lake Allotment set forth in this grazing decision are interim in nature, will cease upon the issuance of biological opinion from the FWS covering grazing activities in accordance with the CDCA Plan, as amended or on **January 31, 2002** whichever is later.

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Harper Lake needs to be modified to enhance critical habitat for the desert tortoise and improve forage conditions. This conclusion is based on rangeland monitoring and the 1999 Rangeland Health Assessment conducted on the Harper Lake Allotment. This action will remove the potential and actual impacts from portions of desert tortoise critical habitat, to the extent that they occur.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations which states in pertinent parts:

43 CFR 4110.3-2 (b) “When monitoring or field observations show grazing use or patterns of use are not consistent with the provision in subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization, or when the use exceeds the livestock carrying capacity as determined through monitoring, ecological site inventory or other acceptable methods, the authorized officer shall reduce the permitted grazing use or otherwise modify management practices.”

43 CFR 4110.3-3 (a) “After consultation , cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the

area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.”

43 CFR 4130.3..... “Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

If you wish to protest this decision in accordance with 43 CFR 4160.2, you are allowed fifteen (15) days from the receipt of this notice within which to file such protest.

Your protest must be filed with the Barstow Field Office Manager within fifteen (15) days of the receipt of this decision at the above BLM Office, 2601 Barstow Road, Barstow California 92311. The protest should specify clearly and concisely why you think this decision is in error. All reasons for error not stated in the protest shall be considered waived. A final decision will be issued at the conclusion of the protest period after consideration of protested issued, if any.

Barry Nelson
Field Manager (Acting)

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures
EA and FONSI
Allotment map

United States Department of the Interior
BUREAU OF LAND MANAGEMENT

BARSTOW FIELD OFFICE
2601 BARSTOW ROAD
BARSTOW, CA 92311
(760) 252-6000
www.ca.blm.gov/barstow

IN REPLY REFER TO:

4160(P)
CA-680.36

CERTIFIED MAIL NO.70993220000132561802
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Ord Mountain Allotment is an ephemeral/perennial allotment with potential to authorize ephemeral forage and an established perennial forage allocation. You are currently permitted to graze 3,632 AUMs, equivalent to 307 head of cattle and 4 horses on the Ord Mountain Allotment. The allotment encompasses 154,848 acres. There are 3,840 acres of State land, 14,820 acres of private land, and 136,188 acres of BLM land. You own or control 5,920 acres of the private land. There are 102,141 acres of desert tortoise critical habitat within the allotment. The enclosed map indicates the area of the allotment, land ownership, desert tortoise critical habitat, and proposed area of seasonal livestock grazing exclusion.

BACKGROUND

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or

to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this grazing decision will cease upon issuance of a biological opinion from the FWS covering grazing activities in accordance with the CDCA Plan, as amended or on **January 31, 2002** whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal closure (June 15 or November 7) will be extended by an additional day.

PROPOSED DECISION

It is my proposed decision, based upon the Environmental Assessment CA-610-01-02 included herein, that cattle grazing will not be authorized in the seasonally excluded area depicted in green as shown on the enclosed map. The Ord Mountain exclusion area is approximately 54,000 acres of desert tortoise critical habitat. This area will be excluded from livestock grazing from March 1 to June 15 and from September 7 to November 7. Grazing use on the Ord Mountain Allotment shall not exceed 62,842 animal (cattle) days for the year. The permitted use for this allotment shall be temporarily reduced to 2,066 AUMs, with a maximum stocking rate of 172 animals. If domestic horses are turned out on public lands within the allotment, the equal number of cattle shall be removed. In the Ord Mountain Allotment, grazing use of available temporary non-renewable perennial forage shall not occur. My authority to modify current grazing practices and reduce permitted use is contained in 43 CFR 4110.3-2 (b) and 4130.3-3 (a).

Livestock shall be prohibited from use of the developed springs if located within the exclusion area during the excluded seasons through the construction of water control fencing which shall enclose the trough(s). You shall have maintenance responsibility for such structures. My authority for these modifications are contain in 43 CFR 4120.3-1 (c) and 4120.3-2 (a). These modification to grazing use on the Ord Mountain Allotment shall be incorporated in to the current grazing lease as terms and conditions for the duration of this decision. My authority to incorporate these terms and conditions are contained in 43 CFR 4130.3.

In order to ensure that the above modification are adhere to, I shall impose the penalties for any non-compliance with this decision discussed herein under ***Enforcement and Compliance Review*** : “If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal closure (June 15 or November 7) will be extended by an additional day.”, in addition to those already included in 43 CFR 4140.1 b (ii)(iii).

The modification to grazing use on the Ord Mountain Allotment set forth in this grazing decision are interim in nature, and will cease upon issuance of a biological opinion from the FWS covering grazing activities in accordance with the CDCA Plan, as amended or on **January 31, 2002** whichever is later.

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Ord Mountian Allotment needs to be modified to enhance critical habitat for the desert tortoise and improve forage conditions. This conclusion is based on rangeland monitoring and the 1999 Rangeland Health Assessment conducted on the Ord Mountain Allotment. This action will remove the potential and actual impacts from portions of desert tortoise critical habitat, to the extent that they occur.

The construction of both riparian exclosure and water control fence shall be implemented at all developed springs located on public land within the allotment in order to improve riparian habitat conditions currently not achieving the Riparian/Wetland National Fallback Standard, and to facilitate the seasonal closure of portions of the Ord Mountain Allotment.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations which states in pertinent parts:

43 CFR 4110.3-2 (b) “When monitoring or field observations show grazing use or patterns of use are not consistent with the provision in subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization, or when the use exceeds the livestock carrying capacity as determined through monitoring, ecological site inventory or other acceptable methods, the authorized officer shall reduce the permitted grazing use or otherwise modify management practices.”

43 CFR 4110.3-3 (a) “After consultation , cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.”

43 CFR 4120.3-1 (c) “The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under §4130.3-2 of this title.”

43 CFR 4120.3-2 (a) “The Bureau of Land Management may enter into a cooperative range improvements or rangeland developments to achieve management or resource condition objectives. The cooperative range improvement agreement shall specify how the costs or labor, or both, shall be divided between the United States and cooperators(s).”

43 CFR 4130.3..... “Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

If you wish to protest this decision in accordance with 43 CFR 4160.2, you are allowed fifteen (15) days from the receipt of this notice within which to file such protest.

Your protest must be filed with the Barstow Field Office Manager within fifteen (15) days of the receipt of this decision at the above BLM Office, 2601 Barstow Road, Barstow California 92311. The protest should specify clearly and concisely why you think this decision is in error. All reasons for error not stated in the protest shall be considered waived. A final decision will be issued at the conclusion of the protest period after consideration of protested issued, if any.

Barry Nelson
Field Manager (Acting)

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures
EA and FONSI
Allotment map

United States Department of the Interior
BUREAU OF LAND MANAGEMENT

BARSTOW FIELD OFFICE
2601 BARSTOW ROAD
BARSTOW, CA 92311
(760) 252-6000
www.ca.blm.gov/barstow

IN REPLY REFER TO:

4160(P)
CA-680.36

CERTIFIED MAIL NO. 70993220000132561840
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Pahrump Valley Allotment is an ephemeral/perennial allotment with potential to authorize ephemeral forage and an established perennial forage allocation. You are currently permitted to graze 353AUMs, equivalent to 117 head of cattle on the Pahrump Valley Allotment. The Pahrump Valley Allotment encompasses 32,321 acres. There are 670 acres of State land, 313 acres of private land, and 31,338 acres of BLM land. You own or control 207 acres of the private land. There are 31,338 acres of desert tortoise non-critical habitat within the allotment. The enclosed map indicates the area of the allotment, general location of range improvements, land ownership, desert tortoise non-critical habitat, and proposed area of seasonal cattle grazing exclusion.

BACKGROUND

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or

to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this grazing decision will cease upon issuance of a biological opinion from the FWS covering grazing activities in accordance with the CDCA Plan, as amended or on **January 31, 2002** whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal closure (June 15 or November 7) will be extended by an additional day.

PROPOSED DECISION

It is my proposed decision, based upon the Environmental Assessment CA-610-01-02 included herein, that cattle grazing will not be authorized in the seasonally excluded area depicted in green as shown on the enclosed map. The Pahrump Valley Allotment exclusion area is approximately 7,680 acres of desert tortoise non-critical habitat. This area will be excluded from cattle grazing from March 1 to June 15 and from September 7 to November 7. In the Pahrump Valley Allotment, grazing use of available temporary non-renewable perennial forage shall not occur. My authority to modify current grazing practices is contained in 43 CFR 4110.3-2 (b) and 4130.3-3 (a). These modification to grazing use on the Ord Mountain Allotment shall be incorporated in to the current grazing lease as terms and conditions for the duration of this decision. My authority to incorporate these terms and conditions are contained in 43 CFR 4130.3.

The modification to grazing use in the Pahrump Valley Allotment set forth in this grazing decision are interim in nature, and will cease upon the issuance of biological opinion from the FWS covering grazing activities in accordance with the CDCA Plan, as amended or on **January 31, 2002** whichever is later.

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Pahrump Valley Allotment needs to be modified to enhance non-critical habitat for the desert tortoise and improve forage conditions. This conclusion is based on rangeland monitoring conducted on the Pahrump Valley Allotment.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations which states in pertinent parts:

43 CFR 4110.3-2 (b) “When monitoring or field observations show grazing use or patterns of use are not consistent with the provision in subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization, or when the use exceeds the livestock carrying capacity as determined through monitoring, ecological site inventory or other acceptable methods, the authorized officer shall reduce the permitted grazing use or otherwise modify management practices.”

43 CFR 4110.3-3 (a) “After consultation , cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.”

43 CFR 4130.3..... “Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

If you wish to protest this decision in accordance with 43 CFR 4160.2, you are allowed fifteen (15) days from the receipt of this notice within which to file such protest.

Your protest must be filed with the Barstow Field Office Manager within fifteen (15) days of the receipt of this decision at the above BLM Office, 2601 Barstow Road, Barstow California 92311. The protest should specify clearly and concisely why you think this decision is in error. All reasons for error not stated in the protest shall be considered waived. A final decision will be issued at the conclusion of the protest period after consideration of protested issued, if any.

Barry Nelson
Field Manager (Acting)

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures
EA and FONSI
Allotment map



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Ridgecrest Field Office
300 South Richmond Road
Ridgecrest, CA 93555-4436



IN REPLY REFER TO:

4000(P)

GR# 046522

(CA-650.32)

CERTIFIED MAIL NO. 7000 1670 0000 4808 6850
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Hansen Common Allotment is an ephemeral/perennial allotment with potential forage production to enable the Bureau of Land Management to authorize grazing on ephemeral forage and an established perennial forage allocation. You are currently permitted to graze 354 Animal Unit Months (AUMS), equivalent to 141 head of cattle for a 10 month season on the Hansen Common Allotment. The allotment encompasses 72,102 acres, including 37,254 acres of private land, and 34,848 acres of BLM land. There are 3,549 acres of non-critical habitat for the desert tortoise within the allotment. The proposed interim total exclusion encompasses 3,500 acres of non-critical habitat for the desert tortoise. The enclosed map(s) indicate the area of the allotment, land ownership, and proposed area of total cattle grazing exclusion.

This proposed grazing decision, based upon the enclosed environmental assessment CA610-01-02, modifies the way your cattle can use the allotment to protect the desert tortoise and its habitat, establishes the period for this modification, and sets parameters for cattle use.

BACKGROUND

In 1990 the Mojave population of the desert tortoise was listed as a threatened species.

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that certain activities may continue under agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation concerning livestock grazing went into effect. The restrictions set forth in this proposed grazing decision will cease upon the issuance of a biological opinion from the FWS that addresses the effects of grazing activities covered in the CDCA Plan on the Mojave population of the desert tortoise and the implementation of any applicable terms and conditions, reasonable and prudent alternatives, and/or reasonable and prudent measures requiring immediate implementation, or on January 31, 2002 whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed year-round from desert tortoise habitat (Paragraphs 2(d), 2(e), 2(f), 2(g), 2(h), and 2(i)), if cattle are documented to be present in excluded areas, if the removal procedures outlined in this paragraph have been invoked, and cattle are subsequently documented to be in the excluded areas (second offense), BLM shall reduce the number of animal days per year authorized for that allotment by the number of animal days of cattle documented to be in the excluded areas on the occasion of the violation.

PROPOSED DECISION

It is my proposed decision, based upon environmental assessment CA-610-01-02 included herein and 43 CFR § 4130.3-3(a), § 4130.3, and § 4140.1(b)(ii)(iii), that cattle grazing will not be authorized in the total exclusion area depicted in green on the enclosed map. The exclusion area is approximately 3,500 acres of habitat for the desert tortoise. This area will be excluded from cattle grazing year round.. These modifications on the Hansen Common Allotment shall be incorporated into the current grazing permit as terms and conditions for the duration of this decision. In addition, if the lessee chooses to take non-use, no authorizations for temporary non-renewable perennial forage in the Hansen Common Allotment shall be issued for the duration of this decision.

In order to insure the above modifications are adhered to, I shall impose the penalties for any non-compliance with this decision discussed herein under ***Enforcement and Compliance Review***, if livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed year-round from desert tortoise habitat (Paragraphs 2(d), 2(e), 2(f), 2(g), 2(h), and 2(i)), if cattle are documented to be present in excluded areas, if the removal procedures outlined in this paragraph have been invoked, and cattle are subsequently documented to be in the excluded areas (second offense), BLM shall reduce the number of animal days per year authorized for that allotment by the number of animal days of cattle documented to be in the excluded areas on the occasion of the violation.

The interim total exclusion will be in effect until the issuance of a biological opinion from the FWS that addresses the effects of grazing activities covered in the CDCA Plan on the Mojave population of the desert tortoise and the implementation of any applicable terms and conditions, reasonable and prudent alternatives, and/or reasonable and prudent measures requiring immediate implementation, or on January 31, 2002 whichever is later.

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Hansen Common Allotment needs to be modified to enhance habitat for the desert tortoise. This action will remove the potential and actual impacts from the tortoise habitat, to the extent that they occur in the Hansen Common Allotment. The changes to your permit as a result of this proposed decision are interim in nature.

AUTHORITY

The authority for this proposed decision is contained in Title 43 of the Code of Federal Regulations which state in pertinent parts:

43 CFR 4110.3-3 (a) “After consultation , cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.”

43 CFR 4130.3..... “Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

You may protest this proposed grazing decision within 15 days of receipt. The BLM will not consider any protests filed after 15 days of receipt. Your protest may be in person or in writing and filed with the Ridgecrest Field Office Manager, 300 South Richmond Road Ridgecrest, California 93555. Your protest should specify clearly and concisely why you think this proposed decision, and the underlying Environmental Assessment is in error. All reasons for error not stated in the protest shall be considered waived. A final decision will be issued at the conclusion of the protest period after consideration of protested issues, if any.

Sincerely,

Linn Gum
Acting Ridgecrest Field Manager, for Hector Villalobos

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures: Allotment Map
Environmental Assessment



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Ridgecrest Field Office
300 South Richmond Road
Ridgecrest, CA 93555-4436



IN REPLY REFER TO:
4000(P)
GR# 046525
(CA-650.32)

CERTIFIED MAIL NO. 7000 1670 0000 4808 6874
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Rudnick Common Allotment is an ephemeral/perennial allotment with potential forage production to enable the Bureau of Land Management to authorize ephemeral forage and an established perennial forage allocation. You are currently permitted to graze 6,735 Animal Unit Months (AUMS), equivalent to 739 head of cattle season long on the Rudnick Common allotment. The allotment encompasses 236,184 acres, including 86,030 acres of private land, and 150,154 acres of BLM land. There are 62,503 acres of non-critical habitat for the desert tortoise within the allotment. The proposed interim seasonal exclusion encompasses 31,000 acres of non-critical habitat for the desert tortoise. The enclosed map(s) indicate the area of the allotment, land ownership, and the proposed area of seasonal cattle grazing exclusion.

This proposed grazing decision, based upon the enclosed environmental assessment CA610-01-02, modifies the way your cattle can use the allotment to protect desert tortoise and its habitat, establishes the period for this modification, and sets parameters for cattle use.

BACKGROUND

In 1990 the Mojave population of the desert tortoise was listed as a threatened species.

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this proposed grazing decision will cease upon the issuance of a biological opinion from the FWS that addresses the effects of grazing activities covered in the CDCA Plan on the Mojave population of the desert tortoise and the implementation of any applicable terms and conditions, reasonable and prudent alternatives, and/or reasonable and prudent measures requiring immediate implementation, or on January 31, 2002 whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 CFR § 4150.2 and/or 43 CFR § 4170.1-1, if the owner of the livestock is known, or 43 CFR § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal exclusion (June 15 or November 7) will be extended by an additional day.

PROPOSED DECISION

It is my proposed decision, based upon environmental assessment CA-610-01-02 included herein and 43 CFR § 4130.3-3(a), § 4130.3, and § 4140.1(b)(ii)(iii), that cattle grazing will not be authorized in the seasonal exclusion area depicted in green on the enclosed map. The exclusion area is approximately 31,000 acres of habitat for the desert tortoise. This area will be excluded from cattle grazing from March 1 to June 15 and from September 7 to November 7. These modifications on the Rudnick Common Allotment shall be incorporated into your current grazing permit as terms and conditions for the duration of this proposed decision. In addition, if the lessee chooses to take non-use, no authorizations for temporary non-renewable perennial forage in the Rudnick Common Allotment shall be issued for the duration of this decision.

In order to insure the above modifications are adhered to, I shall impose the penalties for any non-compliance with this proposed decision discussed herein under ***Enforcement and Compliance Review***, if livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 CFR § 4150.2 and/or 43 CFR § 4170.1-1, if the owner of the livestock is known, or 43 CFR § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal exclusion (June 15 or November 7) will be extended by an additional day.

The interim total exclusion will be in effect until the issuance of a biological opinion from the FWS that addresses the effects of grazing activities covered in the CDCA Plan on the Mojave population of the desert tortoise and the implementation of any applicable terms and conditions, reasonable and prudent alternatives, and/or reasonable and prudent measures requiring immediate implementation, or on January 31, 2002 whichever is later.

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Rudnick Common Allotment needs to be modified to enhance habitat for the desert tortoise. This action will remove the potential and actual impacts from the tortoise habitat, to the extent that they occur in the Rudnick Common Allotment. The changes to your permit as a result of this proposed decision are interim in nature.

AUTHORITY

The authority for this proposed decision is contained in Title 43 of the Code of Federal Regulations which state in pertinent parts:

43 CFR 4110.3-3 (a) “After consultation , cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.”

43 CFR 4130.3..... “Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

You may protest this proposed grazing decision within 15 days of receipt. The BLM will not consider any protests filed after 15 days of receipt. Your protest may be in person or in writing and filed with the Ridgecrest Field Office Manager, 300 South Richmond Road Ridgecrest, California 93555. Your protest should specify clearly and concisely why you think this proposed decision, and the underlying EA, is in error. All reasons for error not stated in the protest shall be considered waived. A final decision will be issued at the conclusion of the protest period after consideration of protested issues, if any.

Sincerely,

Linn Gum
Acting Ridgecrest Field Manager, for Hector Villalobos

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures: Allotment Map
EA



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Ridgecrest Field Office
300 South Richmond Road
Ridgecrest, CA 93555-4436



IN REPLY REFER TO:
4000(P)
GR# 046536
(CA-650.32)

CERTIFIED MAIL NO. 7000 1670 0000 4808 6881
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Walker Pass Common allotment is an ephemeral/perennial allotment with potential forage production to enable the Bureau of Land Management to authorize ephemeral forage and an established perennial forage allocation. You are currently permitted to graze 1,219 Animal Unit Months (AUMS), equivalent to 153 head of cattle for a 8 month grazing season on the Walker Pass Common allotment. Your use area in the allotment encompasses 33,674 acres, including 950 acres of private land, 385 acres of state land, and 42,702 acres of BLM land. There are 32,058 acres of non-critical habitat for the desert tortoise within the allotment. Your use area contains 6,387 acres of non-critical habitat for the desert tortoise. The interim seasonal exclusion encompasses 6,387 acres of non-critical habitat for the desert tortoise. The enclosed map indicates the area of the allotment, land ownership, and the proposed area of seasonal cattle grazing exclusion.

This proposed grazing decision, based upon the enclosed environmental assessment CA610-01-02, modifies the way your cattle can use the allotment to protect desert tortoise and its habitat, establishes the period for this modification, and sets parameters for cattle use.

BACKGROUND

In 1990 the Mojave population of the desert tortoise was listed as a threatened species.

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this proposed grazing decision will cease upon the issuance of a biological opinion from the FWS that addresses the effects of grazing activities covered in the CDCA Plan on the Mojave population of the desert tortoise and the implementation of any applicable terms and conditions, reasonable and prudent alternatives, and/or reasonable and prudent measures requiring immediate implementation, or on January 31, 2002 whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal exclusion (June 15 or November 7) will be extended by an additional day.

PROPOSED DECISION

It is my proposed decision, based upon environmental assessment CA-610-01-02 included herein and 43 CFR § 4130.3-3(a), § 4130.3, and § 4140.1(b)(ii)(iii), that cattle grazing will not be authorized in the seasonal exclusion area depicted in green on the enclosed map. The exclusion area is approximately 6,387 acres of habitat for the desert tortoise. This area will be excluded from cattle grazing from March 1 to June 15 and from September 7 to November 7. These modifications on the Walker Pass Common Allotment shall be incorporated into your current grazing permit as terms and conditions for the duration of this proposed decision. In addition, if the lessee chooses to take non-use, no authorizations for temporary non-renewable perennial forage in the Walker Pass Common Allotment shall be issued for the duration of this decision.

In order to insure the above modifications are adhered to, I shall impose the penalties for any non-compliance with this proposed decision discussed herein under ***Enforcement and Compliance Review***. If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal exclusion (June 15 or November 7) will be extended by an additional day.

The interim total exclusion will be in effect until the issuance of a biological opinion from the FWS that addresses the effects of grazing activities covered in the CDCA Plan on the Mojave population of the desert tortoise and the implementation of any applicable terms and conditions, reasonable and prudent alternatives, and/or reasonable and prudent measures requiring immediate implementation, or on January 31, 2002 whichever is later.

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Walker Pass Common Allotment needs to be modified to enhance habitat for the desert tortoise. This action will remove the potential and actual impacts from the tortoise habitat, to the extent that they occur in the Walker Pass Common Allotment. The changes to your permit as a result of this proposed decision are interim in nature.

AUTHORITY

The authority for this proposed decision is contained in Title 43 of the Code of Federal Regulations which state in pertinent parts:

43 CFR 4110.3-3 (a) “After consultation , cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.”

43 CFR 4130.3..... “Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

You may protest this proposed grazing decision within 15 days of receipt. The BLM will not consider any protests filed after 15 days of receipt. Your protest may be in person or in writing and filed with the Ridgecrest Field Office Manager, 300 South Richmond Road Ridgecrest, California 93555. Your protest should specify clearly and concisely why you think this proposed decision, and the underlying EA, is in error. All reasons for error not stated in the protest shall be considered waived. A final decision will be issued at the conclusion of the protest period after consideration of protested issues, if any.

Sincerely,

Linn Gum
Acting Ridgecrest Field Manager, for Hector Villalobos

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures: Allotment Map
EA



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

BARSTOW FIELD OFFICE
2601 BARSTOW ROAD
BARSTOW, CA 92311
(760) 252-6000
www.ca.blm.gov/barstow



IN REPLY REFER TO:

4160(P)

CA-680.36

CERTIFIED MAIL NO. 70993220000132561819
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Rattlesnake Canyon Allotment is an ephemeral/perennial allotment with potential to authorize ephemeral forage and an established perennial forage allocation. You are currently permitted to graze 84 head of cattle and 4 horses, equivalent to 1,081 animal unit months (AUMs) on the Rattlesnake Canyon Allotment. The allotment encompasses 28,757 acres. There are 0 acres of State land, 2,765 acres of private land, and 26,832 acres of BLM land. You own or control 5 acres of the private land. There are acres 12,800 of desert tortoise non-critical habitat within the allotment. The enclosed map indicates the area of the allotment, general location of range improvements, land ownership, desert tortoise non-critical habitat, and proposed area of seasonal livestock grazing exclusion.

BACKGROUND

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this grazing decision will cease upon issuance of a biological opinion from the FWS covering grazing activities in accordance with the CDCA Plan, as amended or on **January 31, 2002** whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal closure (June 15 or November 7) will be extended by an additional day.

PROPOSED DECISION

It is my proposed decision, based upon the environmental assessment included herein, that cattle grazing will not be authorized in the seasonally excluded area depicted in green as shown on the enclosed map. The Rattlesnake Canyon Allotment exclusion area is approximately 6,600 acres of desert tortoise non-critical habitat. This area will be excluded from cattle grazing from March 1 to June 15 and from September 7 to November 7. The permitted use for this allotment shall be temporarily reduced to 541 AUMs, with a maximum stocking rate of 45 animals. If domestic horses are turned out on public lands within the allotment, the equal number of cows shall be removed. In the Rattlesnake Canyon Allotment, grazing use of available temporary non-renewable perennial forage shall not occur. My authority to modify current grazing practices and reduce permitted use is contained in 43 CFR 4110.3-2 (b) and 4130.3-3 (a).

The trailing of livestock through Rattlesnake Canyon shall cease until further notice. The installation of cattleguards and gap fence shall be developed within the canyon to facilitate this action. You shall have normal maintenance responsibility for these developments. My authority for these modifications are contained in 43 CFR 4120.3-1 (c) and 4120.3-2 (a). These

modification to grazing use on the Rattlesnake Canyon Allotment shall be incorporated in to the current grazing lease as terms and conditions for the duration of this decision. My authority to incorporate these terms and conditions are contained in 43 CFR 4130.3.

The termination of the trailing of livestock through Rattlesnake Canyon shall remain in affect until the signing of the Record of Decision (ROD) for the West Mojave Plan. The modification to other grazing use on the Rattlesnake Canyon Allotment set forth in this grazing decision are interim in nature, and will cease upon issuance of a biological opinion from the FWS covering grazing activities in accordance with the CDCA Plan, as amended or on **January 31, 2002** whichever is later.

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Rattlesnake Canyon Allotment needs to be modified to enhance non-critical habitat for the desert tortoise, protect habitat for Parish's daisy and improve forage conditions. This conclusion is based on rangeland monitoring and the 1999 Rangeland Health Assessment conducted on the Rattlesnake Canyon Allotment. This action will remove the potential and actual impacts from portions of desert tortoise habitat, to the extent that they occur.

The installation of cattleguards and gap fencing in Rattlesnake Canyon to preclude the trailing of livestock will protect riparian habitat and other upland habitat.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations which states in pertinent parts:

43 CFR 4110.3-2 (b) "When monitoring or field observations show grazing use or patterns of use are not consistent with the provision in subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization, or when the use exceeds the livestock carrying capacity as determined through monitoring, ecological site inventory or other acceptable methods, the authorized officer shall reduce the permitted grazing use or otherwise modify management practices."

43 CFR 4110.3-3 (a) "After consultation , cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section."

43 CFR 4120.3-1 (c) “The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under §4130.3-2 of this title.”

43 CFR 4120.3-2 (a) “The Bureau of Land Management may enter into a cooperative range improvements or rangeland developments to achieve management or resource condition objectives. The cooperative range improvement agreement shall specify how the costs or labor, or both, shall be divided between the United States and cooperators(s).”

43 CFR 4130.3..... “Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

If you wish to protest this decision in accordance with 43 CFR 4160.2, you are allowed fifteen (15) days from the receipt of this notice within which to file such protest.

Your protest must be filed with the Barstow Field Office Manager within fifteen (15) days of the receipt of this decision at the above BLM Office, 2601 Barstow Road, Barstow California 92311. The protest should specify clearly and concisely why you think this decision is in error. All reasons for error not stated in the protest shall be considered waived. A final decision will be issued at the conclusion of the protest period after consideration of protested issued, if any.

Barry Nelson
Field Manager (Acting)

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures
EA and FONSI
Allotment map



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Ridgecrest Field Office
300 South Richmond Road
Ridgecrest, CA 93555-4436



IN REPLY REFER TO:

4000(P)

GR# 046527

(CA-650.32)

CERTIFIED MAIL NO. 7000 1670 0000 4808 6867
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Tunawee Common Allotment is an ephemeral/perennial allotment with potential forage production to enable the Bureau of Land Management to authorize ephemeral forage and an established perennial forage allocation. You are currently permitted to graze 1,540 Animal Unit Months (AUMS), equivalent to 608 head of cattle for a 2.5 month season on the Tunawee Common allotment. The allotment encompasses 55,931 acres, including 4,202 acres of private land, and 51,729 acres of BLM land. There are 1,800 acres of non-critical habitat for the desert tortoise within the allotment. The interim total exclusion encompasses 1,800 acres of non-critical habitat for the desert tortoise. The enclosed map indicates the area of the allotment, land ownership, and proposed area of total cattle grazing exclusion.

This proposed grazing proposed decision, based upon the enclosed environmental assessment CA610-01-02, modifies the way your cattle can use the allotment to protect desert tortoise and its habitat, establishes the period for this modification, and sets parameters for cattle use.

BACKGROUND

In 1990 the Mojave population of the desert tortoise was listed as a threatened species.

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this proposed grazing decision will cease upon the issuance of a biological opinion from the FWS that addresses the effects of grazing activities covered in the CDCA Plan on the Mojave population of the desert tortoise and the implementation of any applicable terms and conditions, reasonable and prudent alternatives, and/or reasonable and prudent measures requiring immediate implementation, or on January 31, 2002 whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed year-round from desert tortoise habitat (Paragraphs 2(d), 2(e), 2(f), 2(g), 2(h), and 2(i)), if cattle are documented to be present in excluded areas, if the removal procedures outlined in this paragraph have been invoked, and cattle are subsequently documented to be in the excluded areas (second offense), BLM shall reduce the number of animal days per year authorized for that allotment by the number of animal days of cattle documented to be in the excluded areas on the occasion of the violation.

PROPOSED DECISION

It is my proposed decision, based upon environmental assessment CA-610-01-02 included herein and 43 CFR § 4130.3-3(a), § 4130.3, and § 4140.1(b)(ii)(iii), that cattle grazing will not be authorized in the total exclusion area depicted in green on the enclosed map. The exclusion area is approximately 1,800 acres of habitat for the desert tortoise. This area will be excluded from cattle grazing year round. These modifications on the Tunawee Common Allotment shall be incorporated into the current grazing permit as terms and conditions for the duration of this proposed decision. In addition, if the lessee chooses to take non-use, no authorizations for temporary non-renewable perennial forage in the Tunawee Common Allotment shall be issued for the duration of this decision.

In order to insure the above modifications are adhered to, I shall impose the penalties for any non-compliance with this proposed decision discussed herein under ***Enforcement and Compliance Review***, if livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed year-round from desert tortoise habitat (Paragraphs 2(d), 2(e), 2(f), 2(g), 2(h), and 2(i)), if cattle are documented to be present in excluded areas, if the removal procedures outlined in this paragraph have been invoked, and cattle are subsequently documented to be in the excluded areas (second offense), BLM shall reduce the number of animal days per year authorized for that allotment by the number of animal days of cattle documented to be in the excluded areas on the occasion of the violation.

The interim total exclusion will be in effect until the issuance of a biological opinion from the FWS that addresses the effects of grazing activities covered in the CDCA Plan on the Mojave population of the desert tortoise and the implementation of any applicable terms and conditions, reasonable and prudent alternatives, and/or reasonable and prudent measures requiring immediate implementation, or on January 31, 2002 whichever is later.

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02 the current grazing use on the Tunawee Common Allotment needs to be modified to enhance habitat for the desert tortoise. This action will remove the potential and actual impacts from the tortoise habitat, to the extent that they occur in the Tunawee Common Allotment. The changes to your permit as a result of this proposed decision are interim in nature.

AUTHORITY

The authority for this proposed decision is contained in Title 43 of the Code of Federal Regulations which state in pertinent parts:

43 CFR 4110.3-3 (a) “After consultation , cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.”

43 CFR 4130.3..... “Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

You may protest this proposed grazing decision within 15 days of receipt. The BLM will not consider any protests filed after 15 days of receipt. Your protest may be in person or in writing and filed with the Ridgecrest Field Office Manager, 300 South Richmond Road Ridgecrest, California 93555. Your protest should specify clearly and concisely why you think this proposed decision, and the underlying EA, is in error. All reasons for error not stated in the protest shall be considered waived. A final decision will be issued at the conclusion of the protest period after consideration of protested issues, if any.

Sincerely,

Linn Gum
Acting Ridgecrest Field Manager, for Hector Villalobos

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures: Allotment Map
EA



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Ridgecrest Field Office
300 South Richmond Road
Ridgecrest, CA 93555-4436



IN REPLY REFER TO:

4000(P)

GR# 046534

(CA-650.32)

CERTIFIED MAIL NO. 7000 1670 0000 4808 6898
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED GRAZING DECISION

INTRODUCTION

The Walker Pass Common allotment is an ephemeral/perennial allotment with potential forage production to enable the Bureau of Land Management to authorize ephemeral forage and an established perennial forage allocation. You are currently permitted to graze 857 Animal Unit Months (AUMS), equivalent to 107 head of cattle for a 8 month grazing season on the Walker Pass Common Allotment. Your use area in the allotment encompasses 14,791 acres, including 847 acres of private land, and 13,941 acres of BLM land. There are 32,058 acres of non-critical habitat for the desert tortoise within the allotment. Your use area contains 6,865 acres of non-critical habitat for the desert tortoise. The interim seasonal exclusion encompasses 6,865 acres of non-critical habitat for desert habitat. The enclosed map indicates allotment boundary, land ownership, desert tortoise critical habitat, and proposed area of seasonal cattle grazing exclusion.

This proposed grazing decision, based upon the enclosed environmental assessment CA610-01-02, modifies the way your cattle can use the allotment to protect desert tortoise and its habitat, establishes the period for this modification, and sets parameters for cattle use.

BACKGROUND

In 1990 the Mojave population of the desert tortoise was listed as a threatened species.

On March 16, 2000, the Center for Biological Diversity, et al. (Center) filed for injunctive relief in U.S. District Court, Northern District of California (court) against the Bureau of Land Management (BLM) to immediately prohibit all grazing activities that may affect listed species. The Center alleges the BLM was in violation of Section 7 of the Endangered Species Act (ESA) by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the California Desert Conservation Area Plan (CDCA Plan), as amended, upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

To avoid litigating the Center's request for injunctive relief, the parties agreed that activities may continue through agreed upon stipulations. On January 29, 2001, upon signature of the court, the stipulation respecting livestock grazing went into effect. The restrictions set forth in this proposed grazing decision will cease upon the issuance of a biological opinion from the FWS that addresses the effects of grazing activities covered in the CDCA Plan on the Mojave population of the desert tortoise and the implementation of any applicable terms and conditions, reasonable and prudent alternatives, and/or reasonable and prudent measures requiring immediate implementation, or on January 31, 2002 whichever is later.

In addition to the grazing regulations, the following excerpt from stipulation C.6. on page 7, ***Enforcement and Compliance Review***, details requirements for the BLM to resolve cattle trespassing in the exclusion area.

...If livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal exclusion (June 15 or November 7) will be extended by an additional day.

PROPOSED DECISION

It is my proposed decision, based upon environmental assessment CA-610-01-02 included herein and 43 CFR § 4130.3-3(a), § 4130.3, and § 4140.1(b)(ii)(iii), that cattle grazing will not be authorized in the seasonal exclusion area depicted in green on the enclosed map. The exclusion area is approximately 6,865 acres of habitat for the desert tortoise. This area will be excluded from cattle grazing from March 1 to June 15 and from September 7 to November 7. These modifications on the Walker Pass Allotment shall be incorporated into the current grazing permit as terms and conditions for the duration of this decision. In addition, if the lessee chooses to take non-use, no authorizations for temporary non-renewable perennial forage in the Walker Pass Common Allotment shall be issued for the duration of this decision.

In order to insure the above modifications are adhered to, I shall impose the penalties for any non-compliance with this decision discussed herein under ***Enforcement and Compliance Review***, if livestock are present in excluded areas, BLM will make every reasonable effort to remedy situations of livestock encroachment into excluded areas at the time of discovery. In the event the situation cannot be remedied at the time of discovery, BLM will make every effort to verbally notify owners (within 24 hours) to remove livestock. In the event, livestock are not removed as requested within 48 hours after notification, BLM shall initiate the procedures outlined in 43 C.F.R. § 4150.2 and/or 43 C.F.R. § 4170.1-1, if the owner of the livestock is known, or 43 C.F.R. § 4150.4, if the owner of the livestock is not known. For those allotments for which cattle are to be removed seasonally from desert tortoise habitat (Paragraphs 2(j) and 2(l)), for every day on which cattle are documented to be present in excluded areas during the time of exclusion, the ending date of the seasonal exclusion (June 15 or November 7) will be extended by an additional day.

The interim total exclusion will be in effect until the issuance of a biological opinion from the FWS that addresses the effects of grazing activities covered in the CDCA Plan on the Mojave population of the desert tortoise and the implementation of any applicable terms and conditions, reasonable and prudent alternatives, and/or reasonable and prudent measures requiring immediate implementation, or on January 31, 2002 whichever is later.

RATIONALE

Based on analysis from Environmental Assessment CA-610-01-02, the current grazing use on the Walker Pass Common Allotment needs to be modified to enhance habitat for the desert tortoise. This action will remove the potential and actual impacts from the tortoise habitat, to the extent that they occur in the Walker Pass Allotment. The changes to your permit as a result of this proposed decision are interim in nature.

AUTHORITY

The authority for this proposed decision is contained in Title 43 of the Code of Federal Regulations which state in pertinent parts:

43 CFR 4110.3-3 (a) “After consultation , cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §4110.3-2 shall be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.”

43 CFR 4130.3..... “Livestock grazing permits and leases contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”

43 CFR 4140.1 b (ii)(iii)..... “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at 4170.1 and 4170.2: In violation of the terms and condition of the permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized. In an area or at a time different from that authorized.”

RIGHT OF PROTEST

You may protest this proposed grazing decision within 15 days of receipt. The BLM will not consider any protests filed after 15 days of receipt. Your protest may be in person or in writing and filed with the Ridgecrest Field Office Manager, 300 South Richmond Road Ridgecrest, California 93555. Your protest should specify clearly and concisely why you think this proposed decision, and the underlying EA, is in error. All reasons for error not stated in the protest shall be considered waived. A final decision will be issued at the conclusion of the protest period after consideration of protested issues, if any.

Sincerely,

Hector Villalobos
Ridgecrest Field Manager

cc: Tim Salt, District Manager
Members of Interested Public

Enclosures: Allotment Map
EA